

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

FREDERICK BANKS,

Plaintiff,

vs.

ROBERT CESSOR, *et al.*,

Defendants.

Case No. 2:16-cv-01149-JCM-GWF

**FINDINGS AND
RECOMMENDATIONS**

On May 19, 2016, Plaintiff filed a Motion for Leave to Proceed In Forma Pauperis (ECF No. 1). The Court issued an order on January 25, 2017 stating that Plaintiff had failed to file the appropriate form. *See* ECF No. 2. The Court instructed Plaintiff to either (1) file a fully complete application to proceed *in forma pauperis*, on the correct form with complete financial attachments in compliance with 28 U.S.C. § 1915(a); or (2) pay the full \$400 fee for filing a civil action (which includes the \$350 filing fee and the \$50 administrative fee) within thirty days. *Id.* Furthermore, the Court notified Plaintiff that failure to pay the fee within thirty (30) days of the January 25, 2017 order would result in the recommendation that this action be dismissed with prejudice. (*Id.*) To date, Plaintiff has failed to pay the filing fee and the time allowed has expired. Accordingly,

IT IS HEREBY RECOMMENDED that Plaintiff's Complaint (ECF No. 1) should be **dismissed with prejudice** based on Plaintiff's failure to pay the complaint filing fee or file an application to proceed *in forma pauperis* within the time allotted by the Court.

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held

1 that the courts of appeal may determine that an appeal has been waived due to the failure to file
2 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has
3 also held that (1) failure to file objections within the specified time and (2) failure to properly
4 address and brief the objectionable issues waives the right to appeal the District Court's order
5 and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153,
6 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

7 DATED this 3rd day of March, 2017.

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10 GEORGE FOLEY, JR.
11 United States Magistrate Judge
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